

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
MARK PALMER, et al.,)
)
Defendants.)

Case No. 4:14 CR 175 AGF (NCC)

**JOINT REQUEST FOR EXTENSION OF TIME TO FILE SUPPLEMENTAL
MOTION FOR LEAVE TO SUPPORT WITH EVIDENCE, INCLUDING
EXPERT OPINION EVIDENCE**

COME NOW Defendants, by and through undersigned counsel, and hereby request an initial two-week extension of time, or until Monday, March 30, 2015, to file a Joint Supplemental Motion for Leave to Support With Evidence, Including Opinion Evidence as said motion relates to any anticipated pretrial motion(s) to dismiss as identified in this Court's Order Concerning Pretrial Motions to Dismiss (Doc. 232). In support of said request, Defendants hereby state as follows:

1) On January 30, 2015, this Court entered its Order Concerning Pretrial Motions to Dismiss thereby directing that any Defendant seeking a pretrial evidentiary hearing in support of a prospective motion to dismiss, file a supplemental "...motion for leave to support with evidence, including expert opinion evidence" no later than March 16, 2015. Respective Counsel understand this supplemental motion relates to any motions to dismiss premised on the argument that (1) 21 U.S.C. §§ 802(32)(A) and 813 are unconstitutionally vague due to the use and reliance on the statutory words "substantially similar"; (2) that the same statutes represent an unconstitutional delegation of authority to the Executive Branch of government; (3) that the language of the indictments in issue fail to allege a violation of federal law; and/or (4) any other argument that

challenges the legal sufficiency of the indictments. This Court ordered that these motions are to be filed on or before March 16, 2015. *See Order Concerning Pretrial Motions to Dismiss*, Page 1.

2) Given the unorthodox nature of this matter, as well as the multitude of analogues listed in the indictment, Defendants collectively request additional time to continue their inquiry as to the requested use of the requisite expert for purposes of analyzing the analogues in issue, and to further supplement any pretrial motions to dismiss and attendant evidentiary hearing(s) with expert testimony. Because the limited issue of the analogue analysis is universal to all Defendants, there is a general agreement that additional time to file what can be referred to as a supplemental motion for leave is necessary for the Defendants to present to this Court a detailed supplemental motion, replete with the necessary articulation the expert's qualifications, parameters of analysis and expected testimony, where applicable. Simply stated, the Defendants now agree that this request is necessary so that one, cogent supplemental motion outlining the proposed legal and factual bases for use of an expert in a pretrial context can be filed with this Court.

3) In addition to the aforementioned, there also exists the continued evolution of the discovery process in this matter as it remains ongoing. With respect to the analogues analysis, additional time will serve to ensure that all analogues the Government expects to present as violative of federal law are reviewed and analyzed for purposes of presenting to this Court a viable motion to dismiss. To that end, the Defendants also agree that the additional time to file the supplemental motion will allow for the necessary conference as to expert analysis.

4) Finally, at this juncture, the requested two-week extension does not in any manner affect this Court's pretrial motion deadline as to filing of all traditional pretrial motions.

WHEREFORE, for the foregoing reasons, Defendants request this Court grants their joint request for a two-week extension of time, or until March 30, 2015, to file the supplemental motion

for leave ordered by this Court on January 30, 2015 (Doc. 232) and for any and further relief this Court finds just and prudent under the circumstances.

Respectfully Submitted,

THE LAW OFFICE OF JASON A KORNER

e/s Jason Korner
JASON A. KORNER #58495MO
7911 Forsyth Boulevard, Suite 300
Clayton, Missouri 63105
(314) 409-2659
(314) 863-5335 Facsimile
Attorney for Defendant Leinicke

Certificate of Service

I hereby certify that on March 16, 2015, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

James Delworth
Jennifer Winfield
Assistant United States Attorneys
Thomas F. Eagleton Courthouse, 20th Floor
111 South Tenth Street
St. Louis, Missouri 63101

e/s Jason A. Korner